



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Minutes
Friday, May 9, 2008
1:00 PM
2 Fairgrounds Road

Board Members in attendance: David Wiley, Nancy Sevrems, Burr Tupper, Lisa Botticelli, and Edward Toole.
Staff: John Brescher, Tom Broadrick, Venessa Moore

- I. Call to Order:
Clerk Edward Toole called the meeting to order at 1:05 P.M.
- II. Approval of the Minutes:
A motion was made to approve the Minutes (April 11, 2008), duly seconded and voted 5-0.
- III. Other Business:
- IV. Old Business

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| ▪ | 085-06 | Reis | 80 Miacomet Ave | Reade |
| | | | Action Deadline September 26, 2008; Continued to September 12, 2008. | |
| ▪ | 030-07 | Burnham | 12 ½ Sherburne Turnpike | Reade |
| | | | Action Deadline September 26, 2008; Continued to September 12, 2008. | |
| ▪ | 054-07 | Nantucket Hunt. Assoc. | Madequesham Valley Road | Zieff |
| | | | Action Deadline May 30, 2008; Continued to June 13, 2008. | |
| ▪ | 087-07 | Barrett | 21 Somerset Road | Cohen |
| | | | Action Deadline June 30, 2008; Continued to June 13, 2008. | |
| ▪ | 108-07 | Hammer | 6 King Street | Cohen |
| | | | Action Deadline June 30, 2008; Continued to June 13, 2008. | |
| ▪ | 020-08 | Murphy, Trustee | 5 Spring Street | Gillmore |
| | | | Action Deadline June 29, 2008. | |

Attorney Bruce Gillmore spoke on behalf of the applicant.

Attorney Gillmore explained to the Board that the height of the structure will be 26 feet from grade. The reason for this height is that the applicant is proposing to put utilities in the ceiling.

Lisa Botticelli inquired what the elevation would be. Dick Earle, surveyor for the applicants, responded that it will be 8 feet.

Nancy Sevrens mentioned that applicant will still need HDC approval for this newly constructed dwelling.

Given the delay already incurred from the remand, Attorney Gilmore requested the Board change the limits for when the applicant could perform exterior construction to June 30th. Burr Tupper indicated it would set a bad precedent to change the date from June 15th.

Mr. DaSilva, as an abutter, wondered what the law regarding the demolition of dwellings is. The Zoning Enforcement Officer explained to Mr. DaSilva that each property should be looked at on a case by case basis.

Philip Murphy, as an abutter, requested to see the renderings of the structure and the elevations to get a sense of the layout of the structure.

A motion was made (Wiley) and duly seconded to approve the application on the conditions that the structure needs to comply with all dimensional set back requirements, no exterior work shall be done between 6/15 and 9/15, no exterior work prior to 8AM and no later than 5PM for the life of the project, there shall be 1154 square feet habitable space, there shall be 577 square feet for total ground cover, and that the structure shall not to exceed 25 feet above elevation. The vote was 5-0 in favor.

V. New Business

- 015-08 Barney 25 Commercial Wharf Norton
Action Deadline June 29, 2008.

Val Norton spoke on behalf of the applicants.

Val Norton explained that the plan is modified to reflect the reduced height of the structure by 2 feet. Additionally, the applicant proposes to do the construction through the winter months.

A motion was made (Botticelli) and duly seconded to approve the application on the condition that the ridge height will be changed to incorporate the new plan. The vote was 5-0 in favor.

- 016-08 Werle 80 Sankaty Road Guay
Action Deadline June 29, 2008.

Attorney Joseph Guay spoke on behalf of the applicant.

Attorney Guay explained that the property was originally zoned R-1; but, was then rezoned to LUG-3. The property in question is one of only three in Siasconset to be zoned LUG-3.

A motion was made (Botticelli) and duly seconded to approve the requested relief with the condition that the property be in substantial conformance with the plan dated 11/26/07. The vote was 5-0 in favor.

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| <ul style="list-style-type: none"> ▪ 022-08 Franco
Action Deadline August 7, 2008. | 10 Still Dock | Fitzgerald |
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Attorney Julie Fitzgerald and Willem McRoby spoke on behalf of the applicant.

Attorney Fitzgerald informed the board that although the house has been recently resided, the propane tank and HVAC unit are in the setback.

Ed Toole questioned why, after previously granting relief, the applicant is coming back to the Board a year later asking for additional relief. Burr Tupper echoed this sentiment and had problem with the applicant returning so soon after the prior relief was granted.

A motion was made (Toole) and duly seconded to approve the requested Special Permit. The vote was 1-4 in favor (Toole, Wiley, Koseatac, Tupper opposed). A motion was made (Toole) and duly seconded to approve the requested Variance. The vote was 1-4 in favor (Toole, Wiley, Koseatac, Tupper opposed).

- **024-08 Spruill** **8 & 10 Nichols Road** **Jensen**
Action Deadline August 7, 2008.

Attorney Paul Jensen spoke on behalf of the applicant.

Attorney Jensen explained the applicant is proposing to increase his lot size by acquiring an abutting lot from the Town sponsored “Yard Sale”.

A motion was made (Wiley) and duly seconded to approve the application. The vote was 5-0 in favor.

- **025-08 Brien** **6 Lyons Road** **Jensen**
Action Deadline July 26, 2008.

Attorney Paul Jensen spoke on behalf of the applicant.

A motion was made (Toole) and duly seconded to approve the application with the condition that there be no increase in ground cover. The vote was 5-0 in favor.

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| <ul style="list-style-type: none"> 026-08 5 Chestnut Street LLC
 Action Deadline August 7, 2008. | 5 Chestnut Street | Jensen |
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Attorney Paul Jensen spoke on behalf of the applicants.

Attorney Jensen explained to the Board that the applicant is seeking to remove the hours of operation for the business that were conditioned in the prior decisions. Attorney Jensen also indicated that the Board of Selectmen should retain the authority to determine the hours of operation because they are more equipped to hear complaints.

Nancy Sevens reminded the applicant that the time limits were considered a compromise.

A motion was made (Toole) and duly seconded to approve the application upon the condition that the Café remain open no later than 10:30 pm. The vote was 5-0 in favor.

- **027-08 Keane and Montgomery 4 East Chestnut St. Dale**
Action Deadline August 7, 2008.

Attorney Kevin Dale spoke on behalf of the applicants.

Attorney Dale explained to the Board that the applicant was seeking to modify the prior decisions in order to allow a 56 seat restaurant to be on the premises.

The Board, although generally pleased with the idea of another year-round restaurant, wanted more information regarding employer management plan. The Board also requested additional documents detailing the proposed renovations. The Board asked the applicant if he planned on opening the restaurant before the end of the summer. The applicant stated that it would be unlikely that the restaurant would be opened before the end of the summer. The Board recommended the applicant come back to them with additional information regarding the renovation of the building.

A motion was made (Wiley) and duly seconded to continue the application to the June meeting. The vote was 5-0 in favor.

- **028-08 Cross 39 & 41 Hulbert Ave Santos**
Action Deadline July 26, 2008.

Paul Santos spoke on behalf of the applicants.

Mr. Santos explained to the Board that his clients would like to reconfigure their lot lines. In doing so, the applicants will create a setback nonconformity and the separation between primary and secondary dwellings will not be met.

The Zoning Enforcement Officer indicated that variance relief is not proper as the applicant is creating this hardship. Relief would not be necessary but for the applicants' desire to reconfigure their lot lines.

A motion was made (Wiley) and duly seconded to approve the application. The vote was 0-5 in favor (Tupper, Koseatac, Wayne, Botticelli, and Wiley opposed).

- **029-08 Sabelhaus 5 Heather Lane Reade**
Action Deadline July 26, 2008.

Attorney Arthur Reade spoke on behalf of the applicants.

Attorney Reade explained to the Board that although the applicants initially requested variance relief, special permit relief is more applicable.

The Board, Attorney Reade, and the Zoning Enforcement Officer had a discussion regarding the definition of "structure" and whether or not a pergola falls under the definition of "structure". It was the interpretation of the Zoning Enforcement Officer that a pergola did fall under this definition and therefore required relief.

A motion was made (Wiley) and duly seconded to approve the application with the condition that any changes will need to come in front of the Board of Appeals. The vote was 5-0 in favor.

- **023-08 Spring** **339 Polpis Road** **Self**
Action Deadline July 26, 2008.

Susan Spring represented herself.

Ms. Spring informed the Board that her air conditioner units were placed in the setback. The Board asked Ms. Spring whether or not this was a contractor's error and if she had any further information for the Board. Ms. Spring replied that she did not. The Board indicated that without further information, they could not render a favorable verdict for the applicant and recommended Ms. Spring obtain counsel and come back at the June meeting with more information.

A motion was made (Wiley) and duly seconded to continue the application to the June meeting. The vote was 4-1 in favor (Toole opposed).

- **030-08 43 India St. LLC** **43 India Street** **Reade**
Action Deadline August 7, 2008.

Attorney Arthur Reade spoke on behalf of the applicants.

Attorney Reade explained to the Board that the applicants are exchanging land with their abutter in order to increase the frontage of the applicants' property. This acquisition of land for the applicant will make the property conforming with respect to frontage.

A motion was made (Wiley) and duly seconded to approve the application. The vote was 5-0 in favor.

- **031-08 Levine** **45 Massachusetts Avenue** **Reade**
Action Deadline July 26, 2008.

Attorney Arthur Reade spoke on behalf of the applicant.

Attorney Reade explained to the Board that the previously issued decision was appealed by an abutter. The issue being appealed was a typographical error found in the decision based upon a reference to an outdated plan. The applicant and abutters have come to an agreement and are in agreement with what was originally approved by the Board of appeals. Accordingly, as the applicant's property is in danger because of severe coastal erosion, the applicant is requesting to be able to work to move the dwelling during the summer.

A motion was made (Wiley) and duly seconded to approve the application. The vote was 5-0 in favor.

VI. Adjournment

A motion was made (Wiley) and duly seconded to adjourn the meeting at 4:30 P.M.